

WRITTEN TESTIMONY OF ROBERT ACKERMAN
MICHIGAN STATE HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE MARK MEADOWS, CHAIRMAN

December 14, 2009

Representative Meadows, thank you for making public defense reform a priority of the House Judiciary Committee.

My name is Robert M. Ackerman. In May 2008, I became the tenth dean of Wayne State University Law School. I should hasten to add that the opinions expressed here are my own, and not necessarily those of Wayne State University or its Law School.

Although criminal defense is not my area of expertise, I have frequently taught and published in the areas of trial advocacy and dispute resolution. While I am a relative newcomer to Michigan, I have come to realize that this may be one of the major legal and civil rights issues facing this state. I am encouraged that the committee is holding a hearing on this important issue and thank you for the opportunity to provide testimony.

Stephen Bright, president of the Southern Center for Human Rights, spoke at the Law School recently about the right to counsel in death penalty cases. The talk was subtitled "Neglect of the Most Fundamental Right and What We Should Do About it." Mr. Bright, a nationally renowned expert on the death penalty, cited several cases suggesting a pattern of underrepresentation in serious criminal cases. At the Law School, we pride ourselves on providing learning opportunities such as this and were delighted to have Mr. Bright share his wisdom with our students and the community.

Although Michigan does not have the death penalty, it has been demonstrated quite clearly that the right to counsel, our most fundamental right, and the delivery of public defense services in our state is in crisis. It is time to resolve this crisis with legislative action and systemic solutions.

I currently serve as chair of the executive committee of the Institute of Continuing Legal Education. Training of attorneys on various aspects of the law is incredibly important, and ICLE strives to give attorneys the support and resources needed to do the best job for our clients. ICLE would be happy to explore, with this committee and with other interested parties, how we can address the need for continuing education of attorneys engaged in criminal defense work in Michigan.

It is of grave concern that Michigan has no statewide minimum standards for the training of public defense attorneys. Currently, whether there are training requirements and if so, what those training requirements might be, depends on the court in which an attorney has been appointed. Most courts in Michigan have no real training requirements for public defense attorneys, and specialized training for representation of children in delinquency proceedings is extremely rare.

Training regarding collateral consequences, mental health and substance abuse issues is also rarely available or required.

The end result is uneven justice, and attorneys who are not given the resources they need to serve their adult or children clients – particularly the most vulnerable clients who are most in need of our help. The Constitution promises that “in all criminal prosecutions, the accused shall enjoy the right ... to have the assistance of counsel for his defense.” The sad truth is that this right to effective representation is not being upheld in Michigan.

To improve the quality of representation in Michigan for those accused of crimes, we need a system that meets minimum national standards outlined in the Eleven Principles of a Public Defense Delivery System and that has adequate state funding.

Thank you for your attention and for the opportunity to provide this testimony.

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